Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
COMSAT CORPORATION	)	
	)	
Policies and Rules for Alternative	)	IB Docket No. 98-60
Incentive Based Regulation of	)	
Comsat Corporation	)	

REPORT AND ORDER

Adopted: February 4, 1999 **Released: February 9, 1999**

By the Commission:

I. INTRODUCTION

1. With this *Report and Order*, we adopt a policy of incentive-based price regulation for Comsat Corporation's provision of INTELSAT services in "non-competitive" markets.[1] Last April, we reclassified Comsat as a non-dominant carrier for most of its services, on most of its routes, and eliminated all rate regulation for INTELSAT services markets deemed "competitive".[2] Our decision eliminated rate regulation for approximately 92 percent of Comsat's INTESAT revenues; about eight-percent of Comsat's revenues -- those derived from "non-competitive" INTELSAT services markets -- remain subject to rate-of-return regulation.

2. By our action today, we apply incentive-based policies in lieu of rate-of-return regulation of Comsat services in markets that we have deemed "non-competitive". We find that the public interest, convenience, and necessity is no longer served by rate-of-return regulation on these "non-competitive" routes under the present circumstances. We also adopt a process to determine in the

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1 For purposes of this Order, "INTELSAT services" refer to those switched-voice, private line, full-time video, occasional-use video, and earth station services provided by Comsat using INTELSAT satellites.

2 *See Comsat Corporation*, Order and Notice of Proposed Rulemaking, 13 FCC Rcd 14083 (1998) ("*Comsat Non-Dominant Order & NPRM*"). "Non-competitive" markets refer to those markets determined by the Commission to be "non-competitive". Specifically, "thin-route" and "occasional-use single-carrier" markets are considered "non-competitive, whereas, "thick-route" and "occasional-use multiple-carrier" markets are considered "competitive". *See also infra* note at 13.

future when Comsat markets should be redefined as non-dominant as the result of the introduction of competition. The incentive-based approach we adopt today should encourage growth, facilitate productivity improvements, and result in reduced rates to consumers over time. This new incentive-based regulation will be administratively less burdensome as well as more efficient than the existing regulations.

II. BACKGROUND

3. Since 1985, the Commission has regulated Comsat as a dominant common carrier in the provision of its INTELSAT services.[3] In April 1997, Comsat petitioned the Commission to reclassify it as a non-dominant common carrier in its provision of INTELSAT services and eliminate rate-of-return regulation in the process.[4] Alternatively, Comsat requested forbearance of its INTELSAT services, under Section 10 of the *Act* from (a) continued dominant common carrier regulation, (b) rate-of-return regulation, and (c) structural separation.[5]

4. In the April 1998 *Comsat Non-Dominant Order & NPRM*, we granted Comsat's request for reclassification as a non-dominant common carrier in five service markets. We found Comsat non-dominant in the provision of INTELSAT switched-voice, private line, and occasional-use video services to markets deemed "competitive".[6] We also found Comsat non-dominant in the provision of INTELSAT full-time video and earth station services in all markets. As a result of this finding, rate-of-return regulation was eliminated in these markets. In markets where Comsat was reclassified as non-dominant, it was given the right to file tariffs on one day's notice, without economic cost support, in the same form as filed by other non-dominant common carriers.[7] The tariffs were to be presumed lawful.

5. In that same proceeding, we denied Comsat's request for reclassification as a non-dominant carrier in the following INTELSAT services markets that were deemed "non-competitive": (a) switched-voice and private line service between the United States and 63 countries and (b)

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3 The Commission is authorized to regulate Comsat in its administration of the Communications Act and to prescribe rules to carry out the provisions of the Communications Satellite Act. *See Communications Act of 1934, as amended*, 47 U.S.C. § 151 *et seq.* ("*Act*"). *See also Communications Satellite Act of 1962, as amended*, 47 U.S.C. § 701 *et seq.* ("*Satellite Act*"). The Satellite Act deems Comsat a common carrier within the meaning of Section 3(10) of the *Act* and fully subject to the provisions of Title II and Title III. 47 U.S.C. §§ 201 - 276 and 47 U.S.C. §§ 301 - 399, respectively. Dominant carrier status refers to a carrier with the present ability to exercise market power. See 47 C.F.R. § 61.3(o). Market power is the ability to raise or maintain prices above competitive levels or reduce the quality of the relevant product or service for a significant period of time.

4 *See* Petition of Comsat Corporation, File No. 60-SAT-ISP-97 (April 24, 1997) ("Comsat Petition").

5 *See* 47 U.S.C. § 160.

6 "Competitive" markets in this proceeding refer to "thick-route" or "multiple-carrier" markets. *See also infra* note at 13.

7 Dominant common carriers are required to file explanatory materials and data supporting a new or changed tariff and are subject to longer notice periods. *See* 47 C.F.R. §§ 61.38 and 61.58(c).

occasional-use video service between the United States and 142 countries.[8] We also denied Comsat's request for forbearance under Section 10 of the *Act* for these "non-competitive" markets.[9] We indicated, however, that we would consider replacing rate-of-return regulation for Comsat's remaining dominant markets that provide INTELSAT services with an alternative form of incentive-based regulation. As part of the *Comsat Non-Dominant* decision, we issued a Notice of Proposed Rulemaking seeking public comment regarding three tentative conclusions. We recommended that an alternative incentive-based regulation for the provision of INTELSAT services by Comsat should (a) enable users of "non-competitive" routes to benefit from "competitive" rates or "transaction" rates rather than the non-discounted tariff rates that would result from Comsat's uniform pricing commitment, (b) remain in effect indefinitely, and (c) allow users to benefit from reduced rates due to increases in efficiency and productivity.

6. In response to the Notice in the *Comsat Non-Dominant Order & NPRM*, Comsat filed a proposal for incentive-based regulation of its INTELSAT services to "non-competitive" markets. It proposes to reduce rates for switched-voice service by four-percent annually through the year 2002, at which time it asks the Commission to review the cap mechanism to determine its application in later years.[10] Subsequent reductions on "competitive" routes would be applied to switched-voice "non-competitive" routes. It also proposes to cap rates for private line service at existing levels and apply any subsequent reductions in its "competitive" markets to its "non-competitive" markets.[11] Comsat further offered to implement an immediate four-percent rate reduction for occasional-use video services on all routes, and apply any subsequent reductions in "competitive" markets to these "non-competitive" markets.[12] Furthermore, in "non-competitive" markets, Comsat has agreed not to raise rates for all three services. Finally, Comsat proposes a procedural mechanism by which newly "competitive" markets be reclassified as "thick" or occasional-use "multi-carrier" markets when competition is introduced and, thus, be declared non-dominant and removed from price regulation.[13]

7. AT&T Corp, the Networks (ABC, NBC, CBS, and Turner Broadcasting), and PanAmSat Corporation also filed comments in response to our Notice in the *Comsat Non-Dominant Order & NPRM.* No party objected to the implementation of an alternative incentive-based price

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8 *Comsat Non-Dominant Order & NPRM* at ¶ 180 and 94 - 101. *See also infra* Appendix A and B.

9 *See* 47 U.S.C. § 160.

10 Comsat comments at 7-11.

11 Comsat comments at 11-12.

12 The four-percent rate reduction offer was made in an *ex parte* presentation. *See* "Notice of *Ex parte* Presentation" Letter from Comsat Corporation to the Secretary, Federal Communications Commission (October 9, 1998) ("Comsat Letter").

13 "Thick-route" markets are routes that are linked to the United States by cable and satellites and are served by both Comsat and other United States authorized carriers. "Thin-route" markets are routes that are not linked to the United States by cable and generally Comsat is the sole provider of service. Occasional-use "multiple-carrier" markets are comprised of countries where United States customers have competitive alternatives to Comsat for occasional-use video service. Occasional-use "single-carrier" refers to markets where United States customers have to rely on Comsat for obtaining occasional-use video service. *See Comsat Non-Dominant Order & NPRM* at ¶¶ 42 and 48.

regime. All parties commenting, however, object to various elements of Comsat's proposal. These objections relate to both the structure of the plan, the annual downward rate adjustment factor, and the procedural mechanism by which newly "competitive" markets can be reclassified as "thick" or "competitive" route markets.

III. DISCUSSION

A. Comsat's Business in Relevant Markets

8. Comsat's "non-competitive" INTELSAT switched-voice, private line, and occasional-use video satellite services markets will account for only eight-percent of Comsat's 1998 revenue from INTELSAT services.[14] The total revenue from these services to "non-competitive" markets will amount to approximately $19 million in 1998, of which $18 million are generated from "thin-route" switched-voice and private line services. In 1997, Comsat's total INTELSAT related revenues -- from "competitive" and "non-competitive"markets -- was $263 million.[15] Comsat states that revenues for providing occasional-use video service to "non-competitive" markets in 1997 amounted to $844,000, out of a total of $3.57 million in occasional-use video revenues worldwide.[16] Comsat further estimates that occasional-use video revenues will decrease to $2.3 million in 1998.[17]

9. Further, fewer than 3300 digital circuits, or 13% of Comsat's total switched-voice and private line circuits employed worldwide, are currently used for service deployment to the 63 "thin route" markets where Comsat still remains dominant, as listed in Appendix A.[18] Four hundred of these circuits are used for private line service, and the remaining, or approximately 2,900 circuits, are used for switched voice traffic.[19] The three largest United States carriers, AT&T, Sprint, and MCI, account for 80% of its switched-voice traffic to "non-competitive" markets.[20] These customers qualify for volume discounts under Comsat's service offerings. Customers who do not quality for volume discounts ("low volume customers") accounted for only 500 switched-voice circuits through April 1998. No volume discounts are offered for private line service.

10. Occasional-use video circuit time expended on "non-competitive" route countries in

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[14] Comsat comments at 2-3. The Commission indicated in the *Comsat Non-Dominant Order & NPRM* that INTELSAT services to "non-competitive" markets represented 15 percent of Comsat's INTELSAT related services for 1996. Comsat updates this market information here.

[15] *See* Comsat Letter. Total revenue for these markets in 1998 was not provided.

[16] Occasional-use "non-competitive" video markets refer to countries where United States customers must rely on Comsat to obtain transmit and receive occasional-use video service.

[17] *See* Comsat Letter.

[18] Comsat comments at 5.

[19] *See* Comsat comments at 6. The 400 private line circuits represent 4.2% of Comsat's total circuits used for private line service.

[20] Comsat comments at 6.

1997 totaled 84,500 minutes, which represents 23 percent of Comsat's total occasional-use video circuit time of 364,670 minutes provided worldwide.[21] Additionally, although the *Comsat Non-Dominant Order & NPRM* listed 142 countries as having "non-competitive" markets, Comsat actually provided service to only 49 of these countries in 1997, 50 countries in 1996, 49 countries in 1995, and 46 countries in 1994. No volume discounts are offered for occasional-use video service. No one has disputed Comsat's information regarding the total revenues generated or the total number of circuits used.

B. Principles and Objectives Underlining Alternative Incentive-Based Pricing

11. The *Comsat Non-Dominant Order & NPRM* tentatively concluded that an alternative incentive-based regulation should (a) remain in effect for an indefinite period, (b) allow all users of Comsat's service to "non-competitive" markets to benefit from a "competitive" or "transaction" rate rather than the non-discounted tariff rate that would result from Comsat's uniform pricing commitment,[22] and (c) allow all users of Comsat's service to "non-competitive" markets to benefit from reduced rates due to increases in efficiency and productivity.[23] In addition, we said that an "alternative incentive-based" price procedure should be simple to implement and uncumbersome. Nevertheless, we said that this regulatory policy should (a) promote proper efficiency incentives for Comsat, (b) benefit consumers through lower rates in the dominant markets, and (c) relieve the Commission from administratively burdensome rate-of-return regulation of Comsat in these markets. All parties commenting in this proceeding generally agree with the principles expressed by the Commission, including the need for simple and administratively less burdensome regulatory procedures.

12. In addition to the general support for the principles, the commenting parties make other suggestions to incorporate into an incentive-based price regulation plan. AT&T proposes imposing an "appropriate" X-factor to adjust any approved price caps in order to ensure that consumers are adequately protected.[24] It states that any plan should (a) provide a reliable measure of the extent to which changes in Comsat's unit costs have been less than the change in the level of inflation, (b) pass through ongoing cost reductions to consumers, and (c) be relatively simple to

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21 Comsat comments at 5.

22 Comsat offers high volume users, like AT&T, Sprint, and MCI, significantly discounted tariff and contract rates for switched-voice service. These discounted rates may reflect both the economies of scale inherent in providing high volume service and increased pressure on Comsat to match the lower rates offered by its competitors in "competitive" markets. It is unclear whether users seeking service in "non-competitive" markets are in a position to take advantage of such discounted or transaction rates or whether they generally must pay the higher non-discounted tariff rates. Thus, Comsat's uniform pricing for switched-voice service, even if adopted as a commitment, would not necessarily lead to lower, more competitive rates for all users in "non-competitive" markets. *Comsat Non-Dominant Order & NPRM* at ¶ 165.

23 *Comsat Non-Dominant Order & NPRM* at ¶ 165.

24 *See* AT&T comments at 4. An X-factor is an adjustment that lowers prices annually in order to take into account expected efficiency and productivity savings.

implement and based on current publicly available data.[25] AT&T also insists that there should be no guarantee that Comsat will be able to recover all of its costs. It further believes that the Commission should use the mandatory price cap regulation of the large local exchange carriers ("LECs") as a model for this plan.[26]

13. The Networks propose an aggressive annual downward adjustment to the price cap to account for expected productivity growth in the occasional-use video service market.[27] They also propose a separate "basket" for occasional-use video service.[28] Further, the Networks assert that because occasional-use video service is less competitive than switched-voice service Comsat might only target its rate concessions toward its switched-voice customers, absent a separate "basket" for occasional-use video.[29]

14. PanAmSat contends that the incentive-based regulatory method adopted should not lock-in Comsat's existing prices on routes and markets in which Comsat is now dominant.[30] PanAmSat asserts that current prices in these markets are monopolistic. Instead, either by determining initial benchmark price caps, or through an annual price deflator or consumer productivity dividend, PanAmSat believes Comsat's rates need to be driven to competitive levels. PanAmSat also states that price caps are generally not an effective guard against predatory pricing.[31] Therefore, it argues that the Commission should include within its Comsat price cap policy a limit on sudden or large price increases or decreases, which could be used in support of predatory practices.[32] In addition, PanAmSat argues that whatever price caps the Commission adopts, close regulatory oversight of Comsat's accounting practices will be required. PanAmSat agrees with the Networks that a separate basket is needed for occasional-use video, as well as switched-voice and private line services.[33] Finally, because the *Comsat Non-Dominant Order & NPRM* eliminated structural separation requirements previously imposed on Comsat, PanAmSat asserts that accounting oversight is the only protection the public has against Comsat using its market power to take unfair advantage of customers.[34]

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[25] AT&T comments at 4-5.

[26] AT&T comments at 5.

[27] Networks comments at 5-6.

[28] A separate basket refers to a set of services, subject to an alternative incentive-based price scheme, that are grouped together for regulatory purposes because they have similar demand characteristics.

[29] Networks comments at 6-7.

[30] PanAmSat comments at 1.

[31] *Id.* at 2.

[32] *Id.*

[33] PanAmSat specifically stated here that separate baskets are needed for occasional-use video and Public Switched Telephone Network ("PSTN") services. We understand its reference.to PSTN as including both switched-voice and private line services.

[34] *Id.*

C. Analysis of Comsat's Proposals to Implement Alternative Incentive Based Regulation

1. Switched-Voice Service on "Thin Routes"

15. Comsat's proposes a four-percent annual rate reduction of switched-voice service for "non-competitive" markets through 2002, while also agreeing that rates will not increase. Although Comsat does not specifically propose to discontinue the annual four-percent rate reduction in 2002, it does ask that the plan be reviewed at that time.[35] Additionally, it guarantees that the existing switched-voice tariff rates will remain in place as an option for those customers whose aggregate circuit volume would otherwise result in a lower rate.

16. Comsat maintains that its proposal of a four-percent annual rate reduction for switched-voice service in "non-competitive" markets will allow users to benefit from a "competitive" or "transaction" rate rather than a non-discounted tariff rate that would result from only offering a uniform pricing commitment.[36] It insists that this proposal will bring "thin-route" rates for low volume customers below the current "competitive" or "transaction" rate for switched-voice service generally. Comsat claims further that users will receive the benefit of reduced rates due to increases in efficiency and productivity, since the four-percent annual rate reduction will provide a real incentive for Comsat to be more efficient and productive.[37] It contends that a four-percent annual rate reduction reflects approximately the same efficiencies that other telecommunications companies have historically achieved. Moreover, Comsat asserts that the four-percent annual reduction compares favorably to various streamlined rate regulation regimes currently employed by the Commission.[38] Comsat, however, notes that there have been no productivity growth studies specific to the satellite industry.

17. PanAmSat believes that the alternative incentive-based method chosen should not lock-in Comsat's already "monopolistic" prices on routes and markets in which Comsat remains dominant. It insists that Comsat's rates need to be driven to competitive levels, which could be determined through an annual price deflator or consumer productivity dividend. PanAmSat maintains that Comsat's current rates reflect a regulated rate under rate-of-return regulation which may not reflect competitive prices.

18. AT&T argues that Comsat fails to explain why its price cap proposal for low-volume users of switched-voice service should not be subject to the 6.5% annual reduction in inflation-adjusted rates required under the price caps for large LECs.[39] It also asserts that Comsat's plan for an alternative incentive-based regulation of "non-competitive" markets provides no assurance that Comsat will pass through to consumers a reasonable portion of the benefits of any productivity growth.[40] AT&T contends that without the necessary data, there can be no confidence that the price cap proposal

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[35] *Id.* at 10-11.

[36] *Id.* at 8.

[37] *Id.* at 8-9.

[38] *Id.* at 9-10.

[39] AT&T reply comments at 2-4.

[40] *Id.* at 4.

by Comsat would require a sufficient portion of its future productivity gains to flow through to consumers.[41] Thus, AT&T argues, in the absence of such data, Comsat's "non-competitive" services should be regulated under a similar price cap regime as the large LECs.

19. We find that Comsat's proposal to reduce rates by four-percent annually, while agreeing not to raise rates at any time, is reasonable. Customers for switched-voice service to "non-competitive" markets are afforded an immediate reduction of four-percent from the current switched voice rate, or the geographically averaged rate that is applicable to all markets. Comsat's proposal guarantees a rate reduction as long as Comsat is regulated as a dominant carrier for the "non-competitive" switched-voice markets, regardless of Comsat's ability to increase productivity or manage the effect of external cost factors, such as inflation. The four-percent reduction would reduce Comsat's rates in "non-competitive" markets to rates below those presently charged by Comsat in "competitive" markets. In effect, customers receive the benefits of potential increases in productivity regardless of whether such productivity increases actually occur. Further, if a subsequent "competitive" market rate reduction produces a rate lower than that achieved by the annual four-percent reductions in "switched-voice" "non-competitive" markets, customers will be afforded the lower "competitive" rate.

20. We disagree with AT&T's assertion that an appropriate rate adjustment would be the 6.5 percent annual rate reduction as applied to the large dominant local exchange carriers ("LECs"). AT&T fails to explain why a rate adjustment as applied to Comsat, an international satellite services provider, must equal the rate adjustment factor as applied to large LECs, given the differences in technology employed and the type of services provided. Absent a productivity study of the satellite industry, we have no basis for concluding that increases in productivity and efficiency are necessarily the same for a satellite services provider and a large LEC. Further, no commenter has provided or referred to any productivity growth studies specific to the satellite industry.[42] Conducting a valid productivity study would involve a detailed complex analysis of the operating performance and cost structure of the fixed satellite services industry over a period of time. A study based on examining only Comsat, which represents only a small portion of an entire industry, will not necessarily yield an accurate assessment of the productivity and efficiency gains experienced by a typical firm in that industry.[43] A productivity study of the fixed satellite industry would also be highly resource and time intensive. For example, the Commission's request for comments on the various elements of the LECs' price cap regulation elicited responses from a broad and diverse array of parties representing virtually every segment of the telecommunications industry, including LECs, inter-exchange carriers ("IXCs"), telecommunications user groups, and consumer groups.[44]

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[41] *Id.* at 2-3.

[42] Networks comments at 5.

[43] In price cap theory, a productivity factor based on an industry average is considered the normative benchmark which an individual firm must match in the future in order to create an incentive for each company to behave at least as efficiently as the "average firm" has in the past. Basing a productivity factor on Comsat's past performance alone would not enable the Commission to determine such an industry-wide productivity measure.

[44] *See Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786 (1990).

21. We believe that conducting our own study would not be an efficient use of Commission resources given the small size of the markets under consideration. . We note that switched-voice and private line services to "thin-route" markets accounted for only approximately $18 million in revenue in 1997; whereas interstate access service revenues accounted for approximately $20 billion. In addition, any study that measures past productivity trends in satellite technology is unlikely to yield an accurate prediction of future productivity trends because satellite technology is evolving so quickly. Therefore, given the small size of this market in terms of revenue, and the evolving nature of satellite technology, we believe that the benefits of engaging in a complex study, as measured by determining the most appropriate rate adjustment factor, are unlikely to exceed the costs, as measured by the consumption of Commission time and resources.

22. We conclude that Comsat's proposal of a four-percent annual rate reduction of switched-voice service for "non-competitive" markets is reasonable. The proposal reduces current rates in order to reflect a competitive or transaction rate and will, in effect, pass on the benefits of productivity improvements to its customers. Comsat's plan also satisfies our objective of adopting a regulatory scheme that would be simple and non-burdensome. While we decline to adopt Comsat's proposal that our incentive-based policy be reviewed on a particular date, Comsat, along with any other party, may petition the Commission in the future to conduct a review of this alternative incentive-based plan if they believe market conditions have changed enough to warrant a modification of the plan.

2. Private Line Service on "Thin Routes"

23. Comsat proposes to cap its current tariff rates for private line service to "non-competitive" markets at the rates offered in "competitive" markets and pledges not to raise rates in the future.[45] It also offers to apply any tariff reduction in "competitive" markets to "non-competitive" markets, consistent with its policy of uniform tariff rates across all geographic markets.[46] As a result, Comsat asserts that its customers on "thin-route" markets will benefit from the competition on "thick-route" markets.[47] It notes that it does not provide volume discounts for private line services and thus customers on "thin" and "thick" routes would pay the same rate regardless of the volume.[48] Comsat states that it lowered its private line tariff rates in response to competition by an average of eight-percent in June 1997, but the Commission did not take this into account in the *Comsat Non-Dominant Order & NPRM.* Comsat maintains that its proposal meets the criteria proposed by the Commission of (a) no definite ending, (b) similar treatment for "thick" and "thin" routes, and (c) protecting customers against rate hikes while at the same time allowing Comsat to respond to competitive marketplace incentives to increase its efficiency and productivity.[49]

24. AT&T contends that Comsat's proposal fails to ensure just and reasonable rates on

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[45] Comsat comments at 12.

[46] *Id.*

[47] *Id.*

[48] Comsat comments at 11.

[49] *Id.* at 12.

"non-competitive" routes, since the price cap proposal relies on uniform tariff rates across all geographic markets capped at current levels.[50] AT&T asserts that Comsat's claim that uniform rates are competitive because they "were designed to meet competition in the "thick-route" market for private line services" was rejected by the Commission in the *Comsat Non-Dominant Order & NPRM*.[51] AT&T contends that Comsat's steep market share declines in switched-voice and private line markets was the result of charging high prices in "competitive" markets.[52] Regarding Comsat's statement that the Commission overlooked its 1997 private line price decrease of eight percent, AT&T asserts that the price reduction occurred after Comsat lost a major portion of its market share and, therefore, does not demonstrate that Comsat will be responsive to competitive forces.[53] Finally, AT&T challenges Comsat's claim that its proposals are warranted because of the "relatively tiny size of its 'thin-route' markets." AT&T notes that the *Comsat Non-Dominant Order & NPRM* made clear that neither the routes nor the regulatory issues involved here are "*de minimis*" in nature.[54]

25. We conclude that Comsat's proposal for the non-competitive private line services market is reasonable under the circumstances presented. In the *Comsat Non-Dominant Order & NPRM*, we said that we were unconvinced that Comsat's proposal to cap its current tariff rates in its "non-competitive" markets and apply its uniform pricing policy to these "non-competitive" rates would be sufficient to ensure that rates are just and reasonable, absent enforcement of our tariff rules.[55] We did not believe that Comsat's uniform pricing commitment would yield a "competitive" rate, given that Comsat's steep decline in market share in the "competitive" markets may have been attributable to charging tariff rates above "competitive" levels with no reduction in its rates over a number of years.[56] The *Comsat Non-Dominant Order & NPRM* states that Comsat did not lower its tariff rates for private line service during the period from 1988 to 1996, when its market share for switched-voice and private line traffic decreased from 70 percent to 21 percent.[57] We find in this proceeding, however, that Comsat did reduce its private line tariff rates by an average of eight-percent in June of 1997.[58] This 1997 rate adjustment demonstrates that Comsat is likely to reduce rates in the "non-competitive" markets in the future through its uniform pricing scheme as competition increases in the non-dominant markets. Given that the vast majority of Comsat's private line revenues are derived from "competitive" markets, we believe Comsat has a strong incentive to respond to competitive pressures on its "thick routes" in order to extract monopoly profits on its "thin route" services. In addition, while we agree with AT&T that the amount of private line revenues and number of circuits involved

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50 AT&T reply comments at 4.

51 *Id.* at 4-5.

52 *Id.*

53 *Id.* at 5.

54 *Id.*

55 *See Comsat Non-Dominant Order & NPRM* at ¶ 145. *See also* 47 C.F.R. § 61.1 *et seq.*

56 *Comsat Non-Dominant Order & NPRM* at ¶ 145.

57 *Id.*

58 Comsat comments at 11.

in these routes is more than *de minimis*, nevertheless, they are small in absolute amounts relative to Comsat's overall business and especially to the communications industry as a whole. The costs of implementing a comprehensive price cap program that would entail conducting a productivity study outweighs the potential benefits of such a program for reasons discussed in paragraphs 20 and 21. No party suggests that private line service merits continued rate-of-return regulation. Also, as noted in paragraph 43 below, we have initiated a rulemaking to consider direct access to INTELSAT which, if adopted, could result in additional consumer choice for these services and downward pressure on rates. Therefore, we accept Comsat's pricing proposal for private line service to the non-competitive markets in light of Comsat's (a) recent decision to decrease rates by an average of eight percent, (b) commitment to uniform pricing where Comsat does not provide any volume discounts, and (c) promise not to raise rates at any time.

3. Occasional-Use Video to "Occasional-Use Single Carrier Markets"

26. Comsat proposes to implement an immediate one-time four-percent rate reduction in its occasional-use video television service for both "competitive" and "non-competitive" markets.[59] It also proposes not to raise its occasional-use video service rates for an indefinite period.[60] Further, Comsat states it will apply any tariff reduction in "competitive" markets to "non-competitive" markets, consistent with its policy of uniform tariff rates across all geographic markets.[61] Comsat notes that volume discounts do not apply to occasional-use video services and that customers accessing the "competitive" and "non-competitive" markets pay the same "competitive" or "transaction" rate, regardless of volume used.[62]

27. The Networks argue that Comsat's proposal lacks any immediate and regular rate reduction for the occasional-use video service market.[63] The Networks urge the Commission to require an annual downward adjustment for expected productivity improvements at a rate of 6.5 percent, which reflects the annual rate reduction applied to the dominant LECs.[64] The Networks assert that the Commission should establish a separate price cap basket for occasional-use video.[65] They contend, that since occasional-use video service is less competitive than switched-voice service, Comsat might target its rate concessions towards its switched-voice customers, absent a separate "basket" for

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[59] *See* Comsat Letter.

[60] Comsat comments at 13.

[61] *Id.*

[62] *Id.*

[63] Networks reply comments at 2.

[64] *Id.* at 2-3. The productivity factor or "X-factor" of 6.5 percent represents the degree to which annual productivity improvements in the provision of interstate access services by the LECs exceed, on average, annual productivity gains in the economy as a whole. In each annual filing , LECs are permitted to increase their access charges no more than economy-wide inflation minus the X-factor, plus or minus certain other limited changes beyond the LECs' control and not otherwise reflected in the economy as a whole.

[65] *Id.* at 4-5.

occasional-use video. They also note, that due to the short-term commitments involved, there is a disincentive for satellite carriers to invest the resources and time necessary to develop competing alternatives.[66]

28. Comsat maintains that productivity gains are inapplicable to occasional-use video service since there is still a large amount of analog traffic for occasional-use video traffic in developing countries where earth stations do not have digital capability. It further contends that digital technology as applied to a multi-user occasional-use video service may actually decrease the space segment supplier's cost efficiency because it uses less space segment capacity and may reduce transponder fill factors, as well as increase the cost of network management. Additionally, Comsat asserts that efficiencies afforded customers by compression technology are already reflected in the narrower bandwidth offerings it has made available on all routes. Finally, Comsat notes that occasional-use video, by nature, is a high-cost service in which efficiencies are difficult to achieve due to short-term and unpredictable commitments.

29. We find that Comsat's proposal is reasonable and we adopt it. It will remain in effect for an indefinite period of time, consistent with the tentative conclusions in the *Comsat Non-Dominant Order & NPRM.* Comsat's proposal implements an immediate four-percent rate reduction for all occasional-use video markets. This reduction will benefit customers immediately. While we would favorably view a proposal to reduce rates by a given percentage annually for occasional-use video service, similar to Comsat's proposal in the non-competitive switched-voice market, we find the present proposal to be reasonable because it assures occasional-use video customers in "non-competitive" markets that rates will not increase at any time, and that any future rate reductions to Comsat's tariffs in "competitive" markets will be applied to tariffs in "non-competitive" markets.

30. In regard to the Networks' proposal that the Commission require an annual downward adjustment for expected productivity improvements at a rate of 6.5 percent, which reflects the annual rate reduction applied to interstate access services of the dominant LECs, we find this proposal unreasonable for the same reasons discussed in paragraph 20 above. The Networks fail to justify why the price cap methods used for the dominant LECs should be applied to Comsat. Specifically, they fail to explain how a price cap methodology applied to the local telephone companies, that control the majority of the United States local access lines, is necessarily appropriate for a satellite company that provides services to other common carriers and enables them to connect to INTELSAT, an international satellite organization. Moreover, as discussed in paragraphs 20 and 21 above in connection with switched-voice services, we believe that the benefits of engaging in a complex, resource-intensive study are unlikely to exceed the costs. Occasional-use video service on "thin-routes" generated less than $850,000 total revenues in 1997.

31. In regard to the Networks' proposal that a separate "basket" be created for occasional-use video service, we note that the Commission does not place these three different service markets -- switched-voice, private line, and occasional-use video -- under one encompassing price "basket". Our evaluation of the proposals has been particular to each individual "non-competitive" service. Additionally, the Networks concern that Comsat may cross-subsidize other services with occasional-use revenues has little merit, given the relatively small degree of revenue generated in the "non-competitive" markets, which was $850,000 in 1997. The Commission has already discussed and dismissed this issue in the *Comsat Non-Dominant Order & NPRM*, where we concluded that existing

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[66] *Id.* at 6.

cost allocation and accounting requirements provide sufficient oversight of Comsat.

D. Predatory Pricing

32. PanAmSat argues that price caps are generally not an effective guard against predatory pricing.[67] Therefore, it asks the Commission to include a limit on sudden or large price increases or decreases, which could be used in support of predatory practices.[68] PanAmSat also asserts that close regulatory oversight of Comsat's accounting practices is necessary to protect further against predatory pricing. PanAmSat also notes, that since the *Comsat Non-Dominant Order & NPRM* eliminated structural separation requirements between Comsat's INTELSAT and non-INTELSAT activities, accounting oversight is the only protection the public has against Comsat taking unfair advantage of its market power.[69]

33. PanAmSat's arguments on the potential for predatory pricing are unpersuasive. First, the courts have recognized that predatory pricing is a business strategy that would be extremely difficult to implement successfully.[70] The Supreme Court has stated that for a predatory pricing claim to be sustained, there must be evidence of pricing below cost for a long period.[71] Moreover, evidence must also support that the party charged with predatory pricing kept prices above a competitive level for a long enough period to be able to recoup the money lost on the predation.[72] Without such an expectation of recoupment, the Courts found that "predatory pricing" actually benefits competition by lowering prices in the marketplace.[73] It is for these reasons the Commission has also been skeptical of predatory pricing claims in the domestic local exchange market, even where carrier market shares exceed 95%.[74]

34. We find that PanAmSat fails to establish the essential elements of a predatory pricing strategy by Comsat. The alternative incentive-based price regulatory scheme that we adopt today does not allow Comsat to increase rates in the future for any of its non-competitive markets. Thus, Comsat would be unable to recoup the money lost on the predation because it will be prevented from raising prices in the future on its dominant routes. In view of the fact that Comsat cannot raise rates, we find that there is no need to set-up additional regulatory safeguards against an unlikely potential predatory pricing scheme by Comsat.

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[67] PanAmSat comments at 1.

[68] *Id.* at 2.

[69] *Id.*

[70] *See, e.g., Matsushita Elec. Ind. Co. v. Zenith radio corp.*, 475 U.S. 574, 594 (1986) (economic realities make predatory pricing schemes self-deterring).

[71] *See Brooke group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 225 (1993) ("*Brooke Group*").

[72] *Id.*

[73] *Id.*

[74] *Access Charge Reform*, 11 FCC Rcd at 21488. *See also PanAmSat Corp. v. Comsat Corp. -- Comsat World Systems*, 12 FCC Rcd 6952, 6958 (1997); *Access Charge Reform*, 11 FCC Rcd 21354, 21487-88 (1996).

E. Redesignating "Non-competitive" Routes that become "Competitive"

35. Comsat proposes that the Commission clarify the procedural mechanism by which newly-competitive geographic markets may be reclassified as non-dominant once marketplace competition develops.[75] Comsat states that the procedure should be similar to the procedure adopted in the *1996 Partial Relief Order*.[76] In it, we granted Comsat's request to file tariffs on 14 days' notice, with a presumption of lawfulness, and with minimal cost support data for its switched-voice and private line services.[77] In addition, we required Comsat to include an evaluation of the effect of the filing on "thin-route" markets, and demonstrate that tariff filings do not restrict the availability of service in "thin-route" countries and have the same rate impact of "thin-route" users as on high volume users.[78] We directed Comsat to update the list of "thick-route" countries included in the *1996 Partial Relief Order* whenever United States carriers' Monthly Circuit Status Reports show that cable service has become available to additional countries.[79]

36. The specific procedure Comsat proposes would allow it to recommend reclassifying a geographic route for a service as "competitive" upon what would be considered a *prima facie* showing of competition, whether that evidence takes the form of the carrier's circuit status reports or other factual data showing that a facilities-based competitor can provide service on a specific route.[80] The burden of proof would then fall on opposing parties to explain why dominant classification would still be required.[81] If this burden is not met, the particular route would then be reclassified as non-dominant and deleted from the list of "thin-route" or single-carrier "non-competitive" market set forth in Appendix A or B of this Order.[82]

37. The Networks object to Comsat's proposal and instead support a notice and comment rulemaking process prior to making any determinations regarding changes in market classification.[83] The Networks argue that whatever procedure the Commission adopts should be one in which affected

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[75] Comsat Comments at 14.

[76] Comsat Comments at 14. *See Petition of Comsat Corporation for Partial Relief From the Current Regulatory Treatment of Comsat World Systems' Switched Voice, Private Line, and Video and Audio Services*, 11 FCC Rcd 9622 (1996) ("*1996 Partial Relief Order*").

[77] *1996 Partial Relief Order* at ¶ 36.

[78] *Id* at ¶ 26.

[79] *1996 Partial Relief Order* at ¶ 26. Circuit status reports are now required only once a year.

[80] Comsat Comments at 15-16.

[81] Comsat Comments at 16.

[82] *See infra, e.g.*, Appendix A and B. We additionally note, that in making the country/market determinations for Appendix A regarding switched-voice and private line in the *Non-Dominant Order & NPRM*, we included those countries/markets where announcements of competition in the form of planned cable construction were forthcoming.

[83] Networks reply comments at 5.

parties are afforded adequate and effective notice of a proposed change and a full opportunity to be heard. PanAmSat asserts that Title I and II of the Communications Act, and precedent require applicants seeking a change in regulatory status to bear the burden of proof. It contends that if the burden of proof is not on Comsat, its customers will be put in the difficult position of having to prove the negative -- that "competition" on the route or market in question is not an adequate check on Comsat's market power.[84] The Networks also assert that a market does not necessarily become competitive simply because another competitor begins providing service in a particular market.[85] PanAmSat argues that Comsat has not provided any compelling or substantial reason for the Commission to place the burden of proof on Comsat's customers.[86]

38. We agree that procedures should be promulgated so that alternative incentive-based price regulation will no longer apply in markets where Comsat can no longer exercise market power. We disagree with the Networks' proposal that the Commission initiate a rulemaking proceeding whenever Comsat petitions the Commission to reclassify a route. The *Comsat Non-Dominant Order & NPRM* has established a standard for determining whether a market or country is "competitive" or "non-competitive". Furthermore, using the rulemaking process would be overly burdensome and unnecessary to assure adequate notice and comment. The Commission also has always had discretion to choose either an adjudicatory or rulemaking proceeding to address a petition.[87] An adjudicatory proceeding can offer adequate protection for the rights of interested parties. A streamlined process here balances the need of Comsat to quickly respond to market conditions, while still requiring Comsat to show that "competition" has been introduced.

39. Based on the comments received, we conclude that the process to reclassify the "thin-route" markets for switched-voice and private line service and single-carrier markets for occasional-use video as non-dominant should include the following. Initially, Comsat must file a petition with the Commission asking that a particular market or markets be reclassified as non-dominant. For the "non-competitive" switched-voice and private line service markets, Comsat must include evidence that the market is served by a United States carrier through submarine cable facilities. For occasional-use video markets, Comsat must include evidence that another satellite carrier is providing transmit and receive (uplink and downlink) occasional-use video service. The type of information required in this showing shall include the (a) name of the cable or satellite provider, (b) the country or countries where the new cable circuit or occasional-use video services provision exists, and (c) the estimated capacity available from the competitor.[88] Comsat must support its filing with an affidavit. For

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[84] PanAmSat reply comments at 2.

[85] Network Comments at 2.

[86] PanAmSat reply comments at 2-3.

[87] *See SEC v. Chenery Corp.*, 332 U.S. 203 (1947) ("the choice made between proceeding by general rule or by individual *ad hoc* litigation is one that lies primarily in the informed discretion of the administrative agency.").

[88] In our recent decision approving the World Com/MCI merger, we noted that upgrades in recently constructed underseas fiber cables can substantially increase transport capacity on existing cables and can be implemented in less than a year. While we found that the World Com/MCI merger would increase concentration in each of three international transport market regions, we also found that it was unlikely to result in anticompetitive effects, given the low barriers to entry and substantial amounts of transport

switched-voice and private line services, we agree that a country listed as being served by cable on the Circuit Status Reports shall be considered *prima facie* evidence that the market is competitive because the capacity available on a submarine cable can be rapidly expanded to meet demand. The showing requirements of this process is consistent with our analysis in the *Comsat Non-Dominant Order & NPRM*, in which evidence of a cable circuit for switched-voice and private line service, and evidence of another carrier for occasional-use video service, provided the standard from which to assess Comsat's market power.

40. Additionally, parties would have the opportunity to challenge Comsat's petition for reclassification by either refuting the evidence submitted by Comsat or showing that the particular market at issue has unique characteristics that would allow Comsat to exercise market power, despite the presence of a cable circuit for switched-voice and private line service or service being provided by another satellite carrier for occasional-use video service.

41. The Networks state that the Commission's market power analysis is too simplistic, and that the mere existence of one competitor in a market generally does not create effective competition.[89] We disagree with the Networks' claim that the market power analysis in the *Comsat Non-Dominant Order and NPRM* was too simplistic. The market power analysis was based on a variety of factors, including demand elasticity, market share, supply elasticity, cost advantages, possible cross subsidies, size, and access to resources. While we did not analyze each market separately, we concluded that these factors used to analyze market power led to the general conclusion that Comsat did not have market power in "thick-route" switched-voice and private line service markets and "multiple-carrier" satellite markets for occasional-use video service. We also concluded that Comsat did have market power in "thin-route" switched-voice and private line service markets and "single-carrier" satellite markets for occasional-use video service. No party filed a petition for reconsideration disagreeing with this analysis or our findings. Nevertheless, if any party feels that the Commission should not reclassify a market as non-dominant based upon a Comsat filing purporting to show that a cable circuit for switched-voice and private line service or another carrier provides service for occasional-use video service, then that party may file the necessary evidence to demonstrate that the analytical approach used in the *Comsat Non-Dominant Order and NPRM* would not be sufficient to conclude that Comsat no longer holds market power due to the unique circumstances of that market. The Commission delegates authority to the International Bureau to approve requests from Comsat for reclassification of "non-competitive" markets, only the Commission, however, may deny such requests.

IV. Administrative Requirements

A. Regulatory Flexibility Act

capacity not controlled by MCI or World Com. *See* Memorandum Opinion and Order, CC Docket No. 97-211, FCC 98-255, released Sept. 14, 1998 at ¶¶ 100-101.

[89] Network Comments at 2.

42. As required by Section 603 of the Regulatory Flexibility Act ("RFA"),[90] an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the *Comsat Non-Dominant Order & NPRM*.[91] The Commission then sought written public comment in that proceeding, including comments on the IRFA. No party filed comments in response to the IRFA. Further, this *Report and Order* promulgates no new rules and our action here does not affect the previous analysis in the *Comsat Non-Dominant Order & NPRM*. The Commission certifies that there will be no significant effect on a substantial number of small entities.

V. Conclusion and Ordering Clauses

43. We find that adoption of this alternative incentive-based price regulation for Comsat's provision of INTELSAT "non-competitive" switched-voice, private line, and occasional-use video services is in the public interest. This simple and less regulatory burdensome approach of Comsat's "thin-route" and "occasional-use single carrier" markets will immediately benefit customers until effective competition in these "non-competitive" markets develop. The implementation of this alternative incentive-based price regulation and the streamlining of our procedures to redesignate Comsat's "non-competitive" routes as they become "competitive", however, is only one more step toward achieving greater competition in the provision of satellite services and streamlining our regulatory approach to Comsat in this area. We recently initiated a rulemaking to consider permitting direct access to the INTELSAT system in the United States.[92] We have tentatively found in the *Comsat Non-Dominant Order* that Level Three direct access would (a) reduce Comsat's control over INTELSAT capacity serving non-competitive markets, (b) give United States carriers and users the option of using another supplier, and (c) reduce Comsat's market power in these markets.[93] Moreover, Level Three direct access would allow users to directly obtain INTELSAT capacity from INTELSAT at the INTELSAT Utilization Charge ("IUC") rate, which is the rate INTELSAT charges its own Signatories.[94]

44. Our adoption of this incentive-based price regulation for Comsat's "non-competitive" INTELSAT switched-voice, private line, and occasional-use video services markets, is based on a Comsat commitment to comply with the requirements made herein. If Comsat fails to abide by these requirements, the Commission will reassess our regulatory approach toward Comsat's dominant markets. Comsat has the opportunity to expressly decline to accept this alternative price regulation within 30 days of the release of this item.

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[90] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

[91] *See Comsat Corporation*, Order and Notice of Proposed Rulemaking, 13 FCC Rcd 14083 (1998) at Appendix C.

[92] In the Matter of Direct Access to the INTELSAT System, Notice of Proposed Rulemaking, FCC 98-192, *rel.* October 28, 1998 (*"Direct Access NPRM"*).

[93] *Comsat Non-Dominant Order* at ¶ 155.

[94] *Direct Access NPRM* at ¶ 8.

45. Accordingly, IT IS ORDERED, that Comsat Corporation's proposal in IB Docket No. 98-60, to establish an alternative incentive-based price regulation in lieu of rate-of-return regulation in "non-competitive" INTELSAT service markets for the provision of switched-voice, private line, and occasional-use video, IS GRANTED, to the extent indicated herein, and Comsat shall be subject to an alternative incentive-based price regulation in the markets for which it remains dominant, as described in this Order. *See* Appendix A and B.

46. IT IS FURTHER ORDERED, pursuant to authority contained in Sections 4(i), 201(b), and 203-205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 201(b), and 203-205, respectively, and Sections 201(c)(5), 201(c)(11), and 401 of the Communications Satellite Act, as amended, 47 U.S.C. §§ 721(c)(5), 721 (c)(11), and 741, respectively, we ADOPT the incentive-based price regulation to the extent indicated herein.

47. IT IS FURTHER ORDERED, that the International Bureau shall have delegated authority to approve petitions from Comsat to redefine any markets served by Comsat from a dominant to a non-dominant status.

48. Comsat Corporation is afforded 30 days from the date of release of this Order to decline the alternative incentive-based price regulation as specified herein. Failure to respond within this period will constitute formal acceptance of the requirements in this Order.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Román Salas

Magalie Roman Salas
Secretary

APPENDIX A

List of Thin Route Market Countries

1. Algeria
2. American Samoa
3. Angola
4. Armenia
5. Azerbaijan
6. Benin
7. Bolivia
8. Bosnia & Herzegovina
9. Botswana
10. Burkina
11. Cameroon
12. Cape Verde
13. Central African Republic
14. Chad
15. Congo
16. Cote d'Ivoire
17. Estonia
18. Ethiopia
19. French Polynesia
20. Gabon
21. Ghana
22. Guinea
23. Iran
24. Iraq
25. Jordan
26. Kenya
27. Lesotho
28. Libya
29. Lithuania
30. Malawi
31. Mali
32. Maritime -Atlantic
33. Maritime -Pacific
34. Mauritania
35. Mauritius
36. Micronesia, Federated States of
37. Midway Atoll
38. Moldova
39. Mozambique
40. Namibia
41. Nauru
42. New Caledonia
43. Nicaragua
44. Niger
45. Northern Mariana Islands
46. Pacific Islands (Palau)
47. Paraguay
48. Rwanda
49. Saint Helena
50. Senegal
51. Sierra Leone
52. Somalia
53. Sudan
54. Suriname
55. Swaziland
56. Tanzania
57. Togo
58. Tonga
59. Turks and Caicos Islands
60. Uganda
61. Western Samoa
62. Zaire
63. Zambia

APPENDIX B

List of Occasional-Use Video Single Carrier Market Countries

South America

Central America/ Caribbean

Saint Kitts & Nevis
Saint Lucia
Saint Vincent
Turks & Caicos

Western Europe

Cyprus
Greenland
Iceland
Malta
Norway

Eastern Europe

Albania
Belarus
Bulgaria
Czech Republic
Estonia
Lithuania
Macedonia
Moldova
Russia
Serbia
Slovenia

Middle East

Bahrain
Iran
Israel
Jordan
Kuwait
Lebanon
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen
Columbia
French Guiana
Guyana
Paraguay
Suriname
Trinidad & Tobago

Central America/ Caribbean

Anguilla
Antigua
Aruba
Bahamas
Belize
Bermuda
British Virgin Islands
Cayman Islands
Chagos Archipelago
Costa Rica
Dominica
Dominican Republic
El Salvador
Gibraltar
Grenada
Guadeloupe
Guatemala
Haiti
Honduras
Martinique
Montserrat
Netherlands Antilles
Panama

Africa

Algeria
Angola
Benin
Botswana
Burkina Faso
Cameroon
Cape Verde
Central African Republic

Africa (continued)

Chad
Congo
Cote d'Ivoire
Dem Rep Congo
Djibouti
Egypt
Ethiopia
Gabon
Gambia
Ghana
Guinea
Guinea Bissau
Kenya
Lesotho
Liberia
Libya
Malawi
Mali
Mauritania
Mauritius
Morocco
Mozambique
Namibia
Niger
Nigeria
Rwanda
Saint Helana
Senegal
Sierra Leone
Somalia
South Africa
Sudan
Swaziland
Tanzania
Togo
Tunisia
Uganda
Zaire
Zambia
Zimbabwe

Central Asia

Armenia
Azerbaijan
Georgia
Kazakhstan
Kyrgystan
Mongola
Uzbekistan

South Asia

Bangladesh
India
Maldives
Nepal
Pakistan
Sri Lanka

Far East

Brunei
Cambodia
Malaysia
South Korea
Thailand
Vietnam

Pacific Rim

American Somoa
Fiji
French Polynesia
Macau
Marshall Islands
Micronesia
Midway Island
Nauru
New Caledonia
New Zealand
Palau
Papua New Guinea
Tonga
Western Somoa